

MAIL STOP INTERFERENCE
ALEXANDRIA VA 22313-1450
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Paper 1

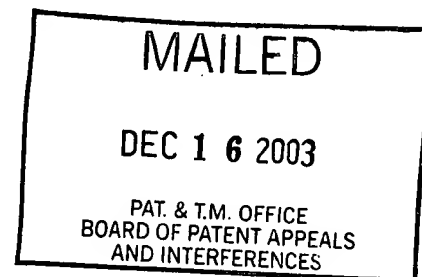
UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,171

UNIVERSITY OF IOWA RESEARCH FOUNDATION,
COLEY PHARMACEUTICAL GROUP, INC., and
THE UNITED STATES OF AMERICA, as represented by the Department of Health and
Human Services
(6,207,646 B1),
Junior Party,

v.

THE REGENTS OF
THE UNIVERSITY OF CALIFORNIA
(09/265,191),
Senior Party.



NOTICE DECLARING INTERFERENCE
(37 CFR § 1.611)

A. Declaration of interference

An interference is declared (35 U.S.C. 135(a)) between the captioned parties. Details of the application, patent, count, and claims designated as corresponding to the count appear under headings E and F of this NOTICE.

B. Administrative patent judge assigned to administer the interference

The interference has been assigned to Administrative Patent Judge Richard Torczon. 37 CFR § 1.610.

C. Standing order

A copy of the Trial Section STANDING ORDER (Paper 2) accompanies this NOTICE. The STANDING ORDER applies to this interference.

D. Conference call to set dates

A telephone conference call to set dates for action in this interference is scheduled for **2 p.m. (Eastern) on 17 February 2004**. (The Board will initiate the call.)

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶ 10.

A copy of a sample order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE. Counsel are encouraged to discuss the order by telephone prior to the telephone conference call and to reach an agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine months. Counsel should be prepared to justify any request for a shorter or longer period.

The Board is conducting a pilot program in electronic filing of interference papers. The procedure is explained in University of New Mexico v. Fordham Univ., No. 104,761 (2001) (<http://www.uspto.gov/web/offices/dcom/bpai/its/104761-021.pdf>). Counsel should be prepared to discuss participation in the pilot program.

E. The parties to this interference

Junior Party

Inventors: Arthur M. Krieg and Joel N. Kline, both of Iowa City, Iowa; and
Dennis Klinman and Alfred D. Steinberg, both of Potomac, Maryland

Patent: 6,207,646 B1 ["646"], issued 27 March 2001
(08/738,652, filed 30 October 1996)

Title: Immunostimulatory nucleic acid molecules

§102(g) benefit: None

Assignee: University of Iowa Research Foundation, Coley Pharmaceutical
Group, Inc., and the United States of America, as represented by the
Department of Health and Human Services

Attorneys: See last page

Address: See last page

Senior Party

Inventors: Dennis Carson and Eval Raz of Del Mar, and Mark Roman of San
Diego, all of California

Application: 09/265,191, filed 10 March 1999

Title: Recombinant gene expression vectors and methods for use of same
to enhance the immune response of a host to an antigen

§102(g) benefit: 08/593,554, filed 30 January 1996

Assignee: The Regents of the University of California

Attorneys: See last page

Address: See last page

F. Count and claims of the parties

Count 1

The method of 646 claim 3.

The claims of the parties are:

Iowa: 1-39
California: 205¹

The claims corresponding to Count 1:

Iowa: 3, 6, 11, 12, 14, 17, 18, 21, 22, 25-27, 30, 31, 37, and 38
California: 205

The claims not corresponding to Count 1:

Iowa: 1, 2, 4, 5, 7-10, 13, 15, 16, 19, 20, 23, 24, 28, 29, 32-36, and 39
California: None

G. Heading to be used on papers

Addendum 1 provides the heading that shall be used on all papers filed in the interference. See STANDING ORDER ¶ 3.5.

H. Summary of dates for taking action

Addendum 2 provides a summary of dates and times for taking action set in the STANDING ORDER.

I. Order form for requesting file copies

Addendum 3 provides an order form for requesting file copies. Use of the form will expedite the processing of your request.

¹ 205. A method for suppressing an allergic response to an antigen in a mammal susceptible to an allergic reaction to said antigen which stimulates production of allergy-associated IgE antibodies in the mammal, comprising parenterally co-administering to the mammal
(a) an effective amount of an immunostimulatory nucleic acid in a plasmid, said immunostimulatory nucleic acid comprising 5'CG3', wherein C is unmethylated, and
(b) an effective amount of the antigen provided as the antigen *per se* or as a polynucleotide encoding the antigen.

J. Notice of intent to publish

In the event that this proceeding should result in a decision or order that the Board believes would be of interest to the public, the decision or order will be published without redaction unless, within sixty days of the entry date of this notice of declaration a party files as a separate paper a notice that specifically identifies information in its application that is not already publicly available that would warrant redaction.

If, after filing such notice, specifically identified information becomes publicly available (for example, through publication of a collateral application), the party shall promptly notify the Board of this change in the status of the information.

The parties are reminded that, in any case, at the end of the proceeding all of the information in the proceeding may be publicly available pursuant to 37 CFR § 1.11(e).



RICHARD TORCZON
Administrative Patent Judge

Enclosures:

- Copy of STANDING ORDER (Paper 2)
- Copy of order used for setting times for taking action in the preliminary motion phase of the interference
- Copy of order used for setting times for taking action in the priority phase of the interference

Interference No. 105,171
Univ. of Iowa Res. Found. et al. v. Univ. of California

Paper 1
Page 6

cc (via overnight carrier):

For University of Iowa Research Foundation, Coley Pharmaceutical Group, Inc., and
the United States of America, as represented by the Department of Health and
Human Services:

Helen C. Lockhart

WOLF, GREENFIELD & SACKS, PC

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² Also, PO Box 1404, Alexandria Va 22313-1404.

ADDENDUM 1

Filed on behalf of: Party _____
By: Name of lead counsel
Name of backup counsel
Street address
City, State, and ZIP Code
Tel:
Fax:

Paper No. _____³

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Torczon)

UNIVERSITY OF IOWA RESEARCH FOUNDATION,
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TITLE OF PAPER

³ Leave blank for the Board to insert the paper number when the paper is entered into the administrative record.

ADDENDUM 2

SUMMARY OF DATES FOR TAKING ACTION

Dates and times for taking action are set in the following paragraphs of the

STANDING ORDER:

<u>Date</u>	<u>Paragraph</u>
Identifying lead and backup counsel	¶ 4
Identifying any real party in interest	¶ 5
Requesting copies of involved and benefit applications and patents	¶ 6
Accomplishing certain discovery	¶ 7
Filing clean copy of claims	¶ 8
Filing clean copy of claims in cases with drawings or claims containing a means-plus-function limitation	¶ 9
Filing list of proposed preliminary motions	¶ 10
Filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions	¶ 13.10.2
Objecting to admissibility of evidence	¶ 14.1.1
Serving supplemental affidavits or evidence to respond to objection to admissibility of evidence	¶ 14.2
When cross-examination can take place	¶ 14.3
Taking action with respect to settlement discussions	¶ 15.2

ADDENDUM 3

FILE COPY REQUEST
Patent Interference No. 105,171

Attach a copy of section E of this NOTICE to this REQUEST. On the copy, circle each patent and application that you are requesting.

Include the following information to facilitate processing of this REQUEST:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box because file copies are sent by commercial overnight courier).

3. Telephone, including area code: _____

INTERFERENCE DIGEST

Interference No. 105,171

Paper No. 46

Name: Dennis A. Carson et al.

Serial No.: 09/265,191

Patent No.

Title: Recombinant gene expression vectors and methods for use of same to enhance the immune response of a host to an antigen

Filed: 03/10/99

Interference with Krieg et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, Adverse Dated, 3-18-05

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.